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LAW OFFICES OF
LOUIS E. GITOMER

LOUIS E. GITOMER
LOU_GITOMER@VERIZON.NET

THE ADAMS BUILDING, SUITE 301
600 BALTIMORE AVENUE
TOWSON, MARYLAND 21204-4022
(202) 466-6512
FAX (410) 332-0885

April 23, 2007

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

AB

RE: Docket No. 511 (Sub-No. 3X). *Central Railroad Company of
Indianapolis - Discontinuance Exemption - in Grant County, IN*



Dear Secretary Williams,

Enclosed are the original and 10 copies of a Petition for Exemption for discontinuance of service in the above-entitled proceeding and a check for the filing fee of \$5,300. Also enclosed is a computer diskette containing the Petition in Word and pdf.

Please time and date stamp the additional copy of this letter and the Petition and return them with our messenger. Thank you for your assistance.

If you have any questions please call or email me

Sincerely yours

Louis E. Gitomer
Attorney for: Central Railroad Company
of Indianapolis

FILED
APR 23 2007
SURFACE
TRANSPORTATION BOARD

Enclosures

FEE RECEIVED
APR 23 2007
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ENTERED
Office of the Secretary
APR 23 2007
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-511 (Sub-No. 3X)

CENTRAL RAILROAD COMPANY OF INDIANAPOLIS
-DISCONTINUANCE EXEMPTION- IN GRANT COUNTY, IN

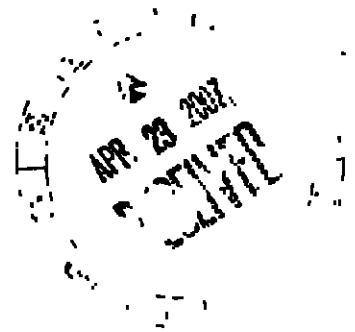
PETITION FOR EXEMPTION

Scott G. Williams, Esq.
Senior Vice President and General Counsel
RailAmerica, Inc
5300 Broken Sound Boulevard N.W.
Second Floor
Boca Raton, FL 33487
(561) 226-1757

Louis E. Gitomer, Esq.
Law Offices of Louis E. Gitomer
600 Baltimore Avenue
Suite 301
Towson, MD 21204
(202) 466-6532

Attorneys for: CENTRAL RAILROAD
COMPANY OF INDIANAPOLIS

Dated: April 23, 2007



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO AB-511 (Sub-No 3X)

**CENTRAL RAILROAD COMPANY OF INDIANAPOLIS
-DISCONTINUANCE EXEMPTION- IN GRANT COUNTY, IN**

PETITION FOR EXEMPTION

Central Railroad Company of Indianapolis ("CERA") petitions the Surface Transportation Board ("STB") for an exemption under 49 U.S.C. § 10502 from the requirements of 49 U.S.C. § 10903 for CERA to discontinue service over a 2.36-mile line of railroad between railroad milepost TS-154.65, near Marion, IN and milepost TS-157.01, near West Marion Belt, IN (the "Line"). CERA operates the Line under trackage rights granted to it by Norfolk Southern Railway Company ("NSR"). The Line traverses United States Postal Service ZIP Codes 46952 and 46953, in Grant County, IN (See Map in Exhibit A).

THE PROPOSED TRANSACTION

CERA proposes to discontinuance of service over the Line, which CERA operates pursuant to trackage rights granted NSR. The 2.36-mile line of railroad is between railroad milepost TS-154.65, near Marion, IN and milepost TS-157.01, near West Marion Belt, IN, in Grant County, IN.

The shippers that CERA was serving under the trackage rights no longer use rail service and NSR has requested CERA to seek discontinuance of service over the Line. NSR retains the common carrier obligation to provide service over the Line.



CFRA did not prepare an Environmental Report or a Historic Report because under the trackage rights agreement NSR retained the common carrier obligation to provide service over the Line, while CERA was operating under the trackage rights. CERA's proposed discontinuance of service under trackage rights qualifies for the exception at 49 C.F.R. §1105.6(c)(6).

Based on information in CERA's possession, the Line does not contain any federally granted right-of-way. Any documentation in CERA's possession title will be made available promptly to those requesting it.

BACKGROUND

NSR granted overhead and limited local trackage rights to CERA over a portion of NSR's track: (1) from CFRA's connection with NSR and the trackage of the West Marion Belt at Michael, IN, at milepost TS-157.44, to the connection between the West Marion Belt and the trackage of Winamac Southern Railroad Company adjacent to NSR-operated Goodman Yard at Marion, IN, and (2) from CERA's connection with NSR at milepost TS-157.44, through the switch serving Bell Fiber Corporation ("Bell") at milepost TS-155.6, to, and including, the switch serving Essex Wire, Incorporated ("Essex"), at milepost TS-154.65, a total distance of approximately 5 miles.¹

Bell and Essex were the only shippers that CERA was serving over the Line. Bell and Essex have stopped using CERA's rail service. A copy of this petition is being served on Bell and Essex at the last address that CERA had for them.

¹ *Central Railroad Company of Indianapolis—Trackage Rights Exemption, Norfolk Southern Railway Company*, STB Finance Docket No. 34212 (STB served July 3, 2002).

ARGUMENT SUPPORTING THE DISCONTINUANCE

CERA seeks an exemption under 49 U.S.C. § 10502 from the applicable requirements of 49 U.S.C. § 10903 in order to discontinue service over the Line that it operates pursuant to trackage rights.

Under 49 U.S.C. § 10502, the STB must exempt a transaction from regulation when it finds that:

- (1) regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. § 10101; and
- (2) either
 - (a) the transaction is of limited scope, or
 - (b) regulation is not necessary to protect shippers from the abuse of market power.

The legislative history of Section 10502 reveals a clear Congressional intent that the STB should liberally use its exemption authority to free certain transactions from the administrative and financial costs associated with continued regulation. In enacting the Staggers Rail Act of 1980, Pub. L. No. 96-488, 94 Stat. 1895, Congress encouraged the STB's predecessor agency to liberally use the expanded exemption authority under former Section 10505.

The policy underlying this provision is that while Congress has been able to identify broad areas of commerce where reduced regulation is clearly warranted, the Commission is more capable through the administrative process of examining specific regulatory provisions and practices not yet addressed by Congress to determine where they can be deregulated consistent with the policies of Congress. The conterees expect that, consistent with the policies of this Act, the Commission will pursue partial and complete exemption from remaining regulation.

H.R. Rep. No. 1430, 96th Cong. 2d Sess. 105 (1980). See also *Exemption from Regulation--Boxcar Traffic*, 367 I.C.C. 424, 428 (1983), vacated and remanded on other grounds, *Brue Corp. v. United States*, 740 F.2d 1023 (D.C. Cir. 1984). Congress reaffirmed this policy in the

conference report accompanying the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which re-enacted the rail exemption provision as Section 10502 H.R. Rep. No. 422, 104th Cong., 1st Sess. 168-69 (1995).

A. The Application of 49 U.S.C. § 10903 Is Not Necessary to Carry Out the Rail Transportation Policy

Detailed scrutiny of this transaction is not necessary to carry out the rail transportation policy. An exemption would minimize the unnecessary expense associated with the preparation and filing of a formal discontinuance application, expedite regulatory decisions and reduce regulatory barriers to exit 49 U.S.C. § 10101 (2) and (7). The discontinuance of service by CERA will not result in a loss of rail service. CERA has only operated under trackage rights, while NSR, the owner of the Line, has retained a concurrent common carrier obligation. In addition, the shippers on the Line are no longer using rail service. Granting this exemption, therefore, fosters sound economic conditions and encourages efficient management by permitting the rationalization of an unnecessary rail line 49 U.S.C. § 10101 (3), (5) and (9). Other aspects of the rail transportation policy are not adversely affected. For example, competition and the continuation of a sound rail transportation system are not affected since the public will not be deprived of any needed rail services.

B. This Transaction Is Of Limited Scope

The proposed transaction is of limited scope. CERA seeks to discontinue service over a 2.36-mile line in one county in Indiana. NSR continues to have the common carrier obligation over the Line.

C. This Transaction Will Not Result In An Abuse Of Market Power.

CFRA is discontinuing the service it has provided over the Line under trackage rights granted by NSR. The owner of the Line, NSR continues to have the common carrier obligation over the Line

Since the shippers on the Line no longer require rail service and no shipper will lose service, CFRA does not anticipate any opposition to the proposed discontinuance

ENVIRONMENTAL REPORT

An Environmental Report is not required pursuant to 49 C.F.R. § 1105.6(c)(6).

HISTORIC REPORT

A Historic Report is not required pursuant to 49 C.F.R. § 1105.8(a) and (b)(1).

FEDERAL REGISTER NOTICE

A Federal Register notice is attached hereto as Exhibit B.

NEWSPAPER PUBLICATION

Certification of publication in a local newspaper is attached hereto as Exhibit C.

LABOR PROTECTION

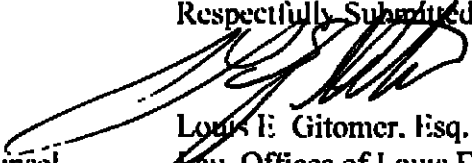
The interests of railroad employees of CFRA who may be adversely affected by the proposed discontinuance will be adequately protected by the labor protective conditions in *Oregon Short Line R. Co --Abandonment--Goshen*, 360 I.C.C. 91 (1979)

CONCLUSION

Application of the regulatory requirements and procedures of 49 U.S.C. § 10903 is not required to carry out the rail transportation policy set forth in 49 U.S.C. § 10101, as previously shown. Nor is STB regulation required to protect shippers from the abuse of market power. Moreover, this discontinuance is of limited scope. Accordingly, CERA respectfully urges the STB to grant the proposed discontinuance of the 2 36-mile Line.

Respectfully Submitted,

Scott G. Williams, Esq.
Senior Vice President and General Counsel
RailAmerica, Inc.
5300 Broken Sound Boulevard N.W.
Second Floor
Boca Raton, FL 33487
(561) 226-1757

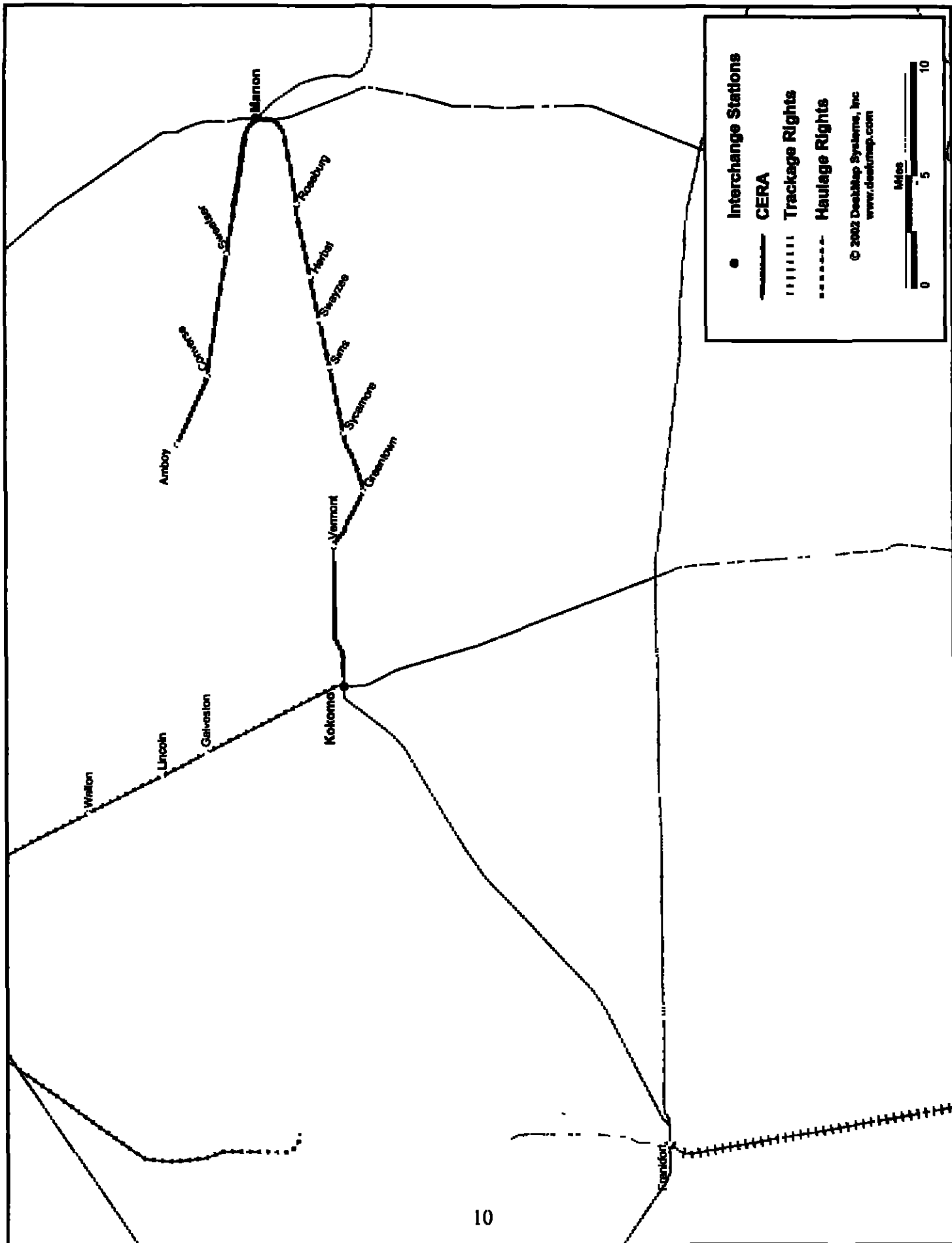


Louis E. Gitomer, Esq.
Law Offices of Louis E. Gitomer
600 Baltimore Avenue
Suite 301
Towson, MD 21204
(202) 466-6532

Attorneys for: CENTRAL RAILROAD
COMPANY OF INDIANAPOLIS

Dated: April 23, 2007

EXHIBIT A-MAP



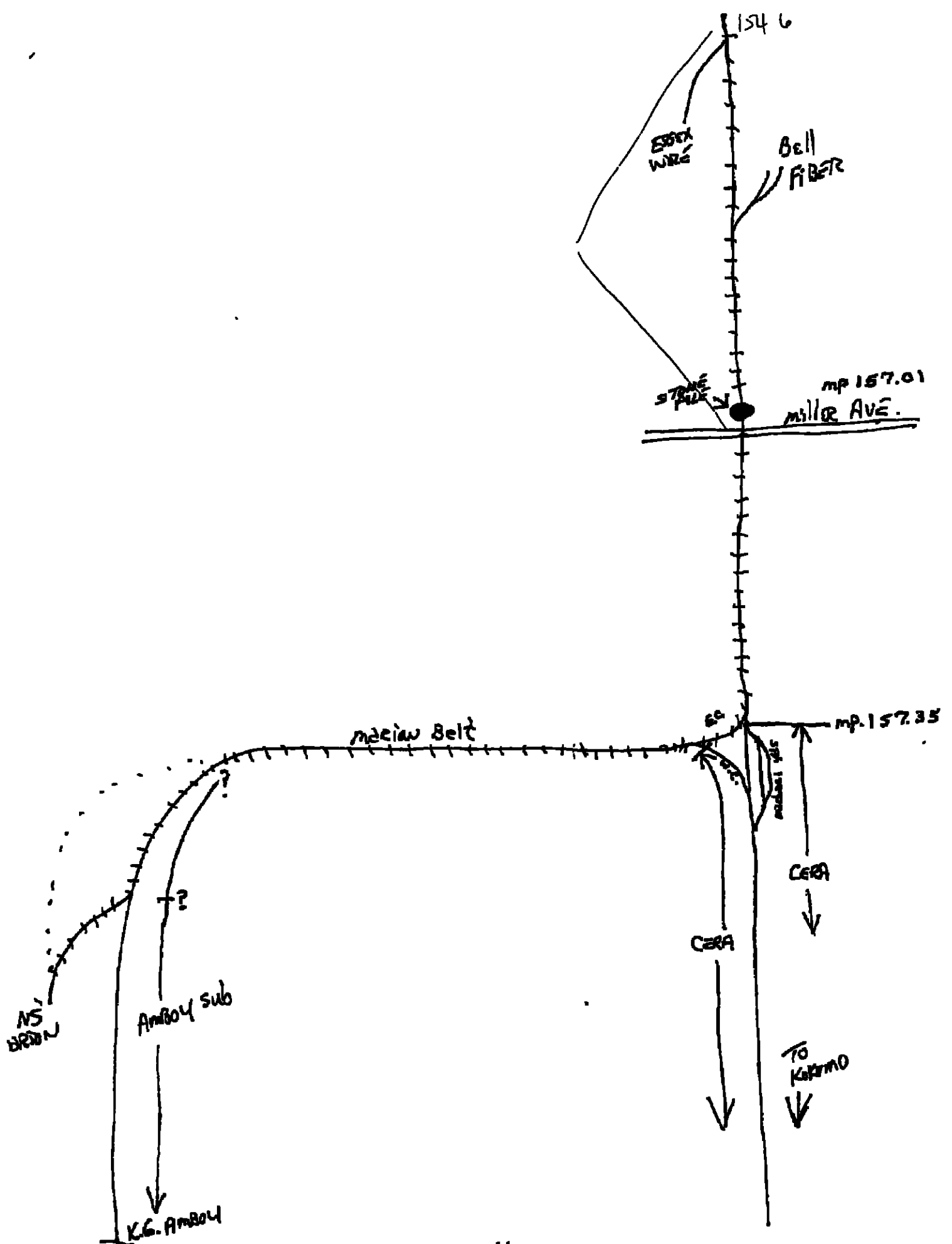


EXHIBIT B—FEDERAL REGISTER NOTICE

CENTRAL RAILROAD COMPANY OF INDIANAPOLIS
--DISCONTINUANCE EXEMPTION--IN GRANT COUNTY, INDIANA

Notice of Petition for Exemption to Discontinue Service

On April 23, 2007 the Central Railroad Company of Indianapolis filed with the Surface Transportation Board, Washington, D.C. 20423, a petition for exemption for the discontinuance of service over a line of railroad that it operates under trackage rights granted to it by Norfolk Southern Railway Company ("NSR") for a 2.36-mile line of railroad between railroad milepost TS-154.65, near Marion, IN and milepost TS-157.01, near West Marion Belt, IN, all of which traverses United States Postal Service ZIP Codes 46952 and 46953, in Grant County, IN. There are no stations on the line for which the discontinuance exemption request was filed.

The line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by *Oregon Short Line R. Co. Abandonment* - Goshen, 360 I.C.C. 91 (1979).

Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption, if applicable.

Since CERA is discontinuing rail service and NSR continues to have the common carrier obligation over the line, the line is not suitable for other public use or interim trail use.


Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at

49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis

It does not appear that an environmental assessment (EA) (or environmental impact statement (EIS), if necessary) will be prepared by the Section of Environmental Analysis. The proposed transaction will not result in salvage or a discontinuance of rail service, meets the requirements of 49 CFR 1105.6(c)(6)

EXHIBIT C—CERTIFICATION OF NEWSPAPER PUBLICATION

The undersigned hereby certifies that notice of the proposed discontinuance of service in Docket No AB-511 (Sub-No 3X), *Central Railroad Company of Indianapolis—Discontinuance Exemption In Grant County, IN* was advertised on April 20, 2007 in the Marion-Chronicle, a newspaper of general circulation in Grant County, IN, as required by 49 C.F.R. § 1105.12.

A handwritten signature in black ink, appearing to read "L. Gitomer", is written over a horizontal line.

Louis F. Gitomer
April 23, 2007

Central Railroad Company of Indianapolis ("CFIRA") gives notice that on or about April 23, 2007, it intends to file with the Surface Transportation Board, Washington, DC 20423, a petition for exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, permitting the discontinuance of service on a 2.36-mile line of railroad that it operates over pursuant to trackage rights between railroad milepost TS-154.65, near Marion, IN and milepost TS-157.01, near West Marion Belt, IN, which traverses through United States Postal Service ZIP Codes 46952 and 46953 in Grant County, IN. The proceeding has been docketed as No. AB-511 (Sub-No. 3X).

The Board's Section of Environmental Analysis will not prepare an Environmental Assessment, pursuant to the exception at 49 C.F.R. § 1105.6(c)(6). Interested persons may make inquiries regarding environmental matters by writing to the Section of Environmental Analysis, Surface Transportation Board, Washington, DC 20423 or by calling that office at 202-245-0295.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, 395 E Street, SW., Washington, DC 20423 [See 49 C.F.R. 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 C.F.R. 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Congressional and Public Services at 202-245-0231. Copies of any comments or requests for conditions should be served on Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, 202-466-6532.

CERTIFICATE OF SERVICE

Pursuant to 49 CFR §1152.60(d), the undersigned hereby certifies that the Petition for Exemption in Docket No AB-511 (Sub-No 3X), *Central Railroad Company of Indianapolis Discontinuance Exemption In Grant County, IN* was mailed via first class mail, postage prepaid, on April 23, 2007, to the following parties:

State Public Service Commission

Utility Regulation Commission
Indiana Government Center, South
302 West Washington Street, Room 306
Indianapolis, IN 46204

Indiana Transportation Department
Indiana Government Center, North
100 North Senate Avenue, Room N755
Indianapolis, IN 46204-2249

U.S. Department of Defense

Military Traffic Management Command
Transportation engineering Agency
Railroads for National Defense
5611 Columbia Pike
Falls Church, VA 22041-5050

National Park Service

Mr Tom Ross
Chief of National Recreation and Trails
U.S Department of Interior - National Park Service
Recreation Resources Assistance Division
P.O. Box 37127
Washington, DC 20013-7127

U.S Department of Interior
National Park Service
Land Resources Division
800 North Capitol St , N.E.
Room 540
Washington, DC 20002

U.S. Department of Agriculture

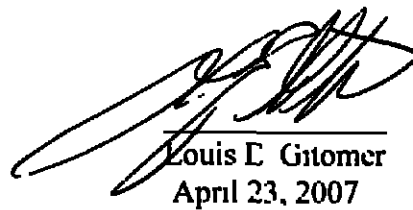
U S Department of Agriculture
Chief of the Forest Service
P O Box 96090
Washington, DC 20690-6090

Bell Fiber Corporation

3102 S Boots
Marion, IN 46953

Essex Wire

2201 S. Branson
Marion, IN 46952



Louis E. Gtomer
April 23, 2007